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In re Application of:
STAHL, KARL ERIK
Application No. 09/397,959
Filed: September 17, 1999
For: SYSTEM AND APPARATUS FOR
TELECOMMUNICATION

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181


This is a decision on the petition filed March 16, 2009 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the finality of the rejection mailed December 17, 2008.

The Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to the Final Office Action mailed December 17, 2008. In the petition, Applicant's counsel alleged that the finality of the office action was improper because the Examiner introduced a new ground of rejection in the Final Office Action that was neither necessitated by applicant's amendment of the claims nor based on information submitted in an Information Disclosure Statement.

A review of the file indicates that no IDS was submitted to cause the new grounds of rejection, and claims 14-26 were comprised of substantially similar subject matter, but they were rejected on the basis of new art. Therefore, the finality of the office action of December 17, 2008 is improper and hereby withdrawn. The Response of March 16, 2009 will be treated as a response to a non-final Office action, and the examiner will act upon the response in due course.

Accordingly, the petition is **GRANTED**.

Any inquiry concerning this decision should be directed to Chau T. Nguyen at (571) 272-3126.


Valencia Martin-Wallace
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